

STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF SECURITIES

In the Matter of)
UBS FINANCIAL SERVICES, INC.,) **CONSENT ORDER**
Respondent.) DFI File S-229037 (LX)

WHEREAS, UBS Financial Services, Inc. ("UBS") is a broker-dealer registered in the state of Wisconsin, with a Central Registration Depository ("CRD") number of 8174; and

State securities regulators, as part of a North American Securities Administrators Association ("NASAA") working group (the "NASAA Working Group"), have conducted an investigation into the registration of UBS Client Service Associates ("CSAs") and UBS's supervisory system with respect to the registrations of CSAs; and

UBS has cooperated with state securities regulators and the NASAA Working Group conducting the investigation by responding to inquiries, providing documentary evidence and other materials, and providing access to facts relating to the investigations; and

UBS has advised the NASAA Working Group of its agreement to resolve the investigation pursuant to the terms specified in this Consent Order (the "Order") and pursuant to the multi-state resolution recommended by the NASAA Working Group; and

UBS has made certain changes in its supervisory system with respect to the registration of CSAs, and will make certain payments in accordance with the terms of this Order; and

UBS elects to waive permanently any right to a hearing and appeal under Wis. Stats. §§ 551.604 and 551.609 with respect to this Order; and

Solely for the purpose of terminating the NASAA working group investigation, and in settlement of the issues contained in this Order, UBS, without admitting or denying the findings of fact or conclusions of law contained in this Order, consents to the entry of this Order.

NOW, THEREFORE, the Administrator of the Division of Securities, as administrator of

1 the Wisconsin Uniform Securities Law, Chapter 551, Wis. Stats., hereby enters this Order:

2 **I.**

3 **FINDINGS OF FACTS**

4 1. UBS admits the jurisdiction of the State of Wisconsin, Department of Financial
5 Institutions, Division of Securities ("the Division") in this matter.

6 Background on Client Service Associates

7 2. The CSAs function as sales assistants and typically provide administrative and sales
8 support to one or more of UBS's Financial Advisors ("FAs"). There are different titles within the
9 CSA position, including Client Service Associate, Registered Client Associate, and Senior
10 Registered Client Service Associate.

11 3. The responsibilities of CSAs specifically include, among other things:

- 12 a. Extending invitations to UBS-sponsored events;
- 13 b. Providing published quotations to clients, if asked;
- 14 c. Inquiring whether a current or prospective client wishes to discuss investments with
15 a registered representative of UBS; and
- 16 d. Entering an order, provided the order was accepted by an appropriately registered
17 individual in those instances where the CSA is not registered in the state in which
18 the client is located.

19 4. In addition to the responsibilities described above, and of particular significance to this
20 Order, some CSAs are permitted to accept orders from clients. As discussed below, UBS's written
21 policies and procedures require that any CSAs accepting client orders first obtain the necessary
22 licenses and comply with self-regulatory organization and state registration requirements.

23 5. UBS issued a revised policy on registration requirements on March 28, 2007, which
24 stated, inter alia, that managers are responsible for ensuring that all employees under their
25 supervision are appropriately registered and licensed to perform the functions of their position.

26 6. During the period of 2004 to 2010, UBS employed, on average, approximately 2,277
CSAs per year.

1
2
3 Registration Required

4 7. Wisconsin Statute § 551.402(1) provides “it is unlawful for an individual to transact
5 business in this state as an agent unless the individual is registered under this chapter as an agent or
6 is exempt from registration as an agent under (2).”

7 8. Pursuant to the general prohibition under Wis. Stat. § 551.402(1), a person cannot
8 accept unsolicited orders in Wisconsin without being registered as an agent or exempt under Wis.
9 Stats., Ch. 551.

10 9. Pursuant to Wis. Stat. § 551.412, the Division may censure, impose a bar, or impose a
11 civil penalty against a broker-dealer for selling securities in Wisconsin through agents other than
12 registered agents.

13 UBS Requires Registration of Client Service Associates

14 10. UBS requires CSAs to become properly registered, licensed, and appointed with the
15 necessary self-regulatory organizations, state regulators, and business entities before taking
16 solicited or unsolicited transaction orders from clients in securities or other financial products,
17 receiving transaction-related compensation, or otherwise engaging in the offer or sale of securities
18 or other financial products.

19 11. UBS’s policies and procedures state that CSAs engaging in securities activities must
20 register in, at a minimum, the state from which they conduct business (i.e. home state).

21 12. Additionally, UBS also required CSAs to register in states in which a CSA anticipated:

- 22 a. Maintaining an additional place of business;
- 23 b. Prospecting clients;
- 24 c. Soliciting new accounts;
- 25 d. Servicing existing accounts; or
- 26 e. Effecting any securities transactions and/or receiving compensation as a result of
such transactions.

1
2 Regulatory Investigation and Findings

3 13. In March 2010, state securities regulators initiated an investigation into the practices of
4 UBS in connection with its CSA registrations.

5 14. The multi-state investigation focused on systemic issues with UBS's CSA registrations
6 and related supervisory structure instead of attempting to identify each incidence of unregistered
7 activity. Specifically, with respect to the order entry process, the investigation found:

- 8 a. After accepting a client order, UBS CSAs accessed UBS's automated Consolidated
9 Order Entry System ("COE") to enter the order;
- 10 b. When entering an order through the COE, CSAs were asked by the system "Did
11 another person receive this order?" If the question was answered "no," the order
12 was processed. If the question was answered "yes," a free text field appeared for
13 the CSA to enter the name or employee code of the person who accepted the order;
- 14 c. In some instances, when this question was answered "yes," CSAs did not include a
15 name or code of the employee who accepted the order in the free text field. In other
16 instances, the free text field did not contain accurate identifying information about
17 the employee who accepted the trade;
- 18 d. Further, while UBS maintained a system to verify that the FA of record for a
19 particular account was registered in the state where the client resided, UBS did not
20 maintain a system to verify the registration status of the employee accepting a client
21 order when that employee was not the FA for the account.

22 15. The multi-state investigation found that on certain occasions some UBS CSAs, while
23 Series 7 registered and registered in one or more other states, accepted unsolicited orders to buy or
24 sell securities from clients residing in Wisconsin at times when the CSAs were not appropriately
25 registered in Wisconsin.
26

1
2 UBS's Remedial Measure and Cooperation

3 16. In November 2010, after the initial inquiry by state securities regulators, UBS enhanced
4 the COE System to automatically validate the registration of employees during the order entry
5 process.

6 17. Specifically with respect to branch support staff (i.e. CSAs), employees are now
7 required to indicate the person who directly accepted the order from a client by selecting "self" or
8 "other" within the electronic ticket on the COE.

9 18. If a CSA selects "self", the COE validates whether the CSA who accepted the order is
10 properly registered in the state where the client resides.

11 19. If a CSA selects "other," the CSA must provide identifying information of the person
12 who accepted the order. The COE system subsequently validates whether the identified person
13 who accepted the order is properly registered in the state where the client resides.

14 20. If the identified person is not properly registered in the client's state of residence, the
15 order is routed to branch management who must ensure that a properly registered person accepts or
16 confirms the order before execution.

17 21. UBS provided timely responses and substantial cooperation in connection with this
18 regulatory investigation.

19 **II.**

20 **CONCLUSIONS OF LAW**

21 1. The Division has jurisdiction over this matter pursuant to Wis. Stat. § 551.613.

22 2. UBS's failure to establish an adequate system to monitor the registration status of
23 persons accepting client orders constitutes a violation of the practice rule in Wis. Admin. Code §
24 DFI-Sec. 4.05(2), which requires that each broker-dealer shall establish and keep current a set of
25 written supervisory procedures and a system for applying such procedures which may be
26

1 reasonably expected to prevent and detect any violations of Chapter 551, and its rules and orders
2 thereunder.

3 3. UBS's maintenance of order tickets which do not accurately identify the person who
4 accepted client orders constitutes a violation of Wis. Admin. Code §§ DFI-Sec. 4.03(1) and (2),
5 requiring that broker-dealers prepare, keep current and preserve at its principal office the books and
6 records described in Rules 17a-3 and 17a-4 under the Securities Exchange Act of 1934.

7 4. Pursuant to Wis. Stat. § 551.412(4)(i), UBS's acceptance of orders for purchases
8 and sales of securities from clients residing in Wisconsin through CSAs not registered in
9 Wisconsin constitute violations of Wis. Stat. § 551.402(4) prohibiting a broker-dealer from
10 employing or associating with unregistered agents, and are bases for the issuance of an Order of
11 censure and imposing a civil penalty against UBS under Wis. Stat. §§ 551.412(2) and (3).
12

13 5. Pursuant to Wis. Stat. § 551.604, UBS's acceptance of orders for purchases and
14 sales of securities in Wisconsin through agents not registered in Wisconsin constitutes a basis to
15 order UBS to cease and desist engaging in the sale of securities in Wisconsin through unregistered
16 agents.

17 6. Pursuant to Wis. Stat. § 551.412(3), the violations described above constitute bases
18 for the assessment of an administrative penalty against UBS.

19 7. The Administrator finds the following relief appropriate and in the public interest.
20

21 **III.**

22 **ORDER**

23 On the basis of the Findings of Facts, Conclusions of Law, and UBS's consent to the entry of
24 this Order,

25 IT IS HEREBY ORDERED:

26 1. This Order concludes the investigation by the Division and any other action that the

1 Division could commence against UBS and its officers, directors and present or former employees
2 under applicable Wisconsin law on behalf of Wisconsin as it relates to unregistered activity in
3 Wisconsin by UBS's CSAs and UBS's supervision of CSA registrations during the period from
4 January 1, 2004 through December 31, 2010.

5 2. This Order is entered into solely for the purpose of resolving the referenced multi-
6 state investigation, and is not intended to be used for any other purpose. For any person or entity
7 not a party to the Order, this Order does not limit or create any private rights or remedies against
8 UBS including, limit or create liability of UBS, or limit or create defenses of UBS, to any claims.

9 3. UBS is hereby censured.

10 4. UBS is hereby ordered to cease and desist from engaging in the acceptance of orders
11 for purchases and sales of securities in Wisconsin through persons not registered with the Division as
12 agents of UBS.

13 5. UBS is hereby ordered to pay the sum of Ninety-three thousand, one hundred twelve
14 and 75/100 dollars (\$ 93,112.75) to the Division within twenty days of the date of this Order. *The*
15 *monies received by the Division pursuant to this paragraph may be deposited in the Gifts, Grants,*
16 *Settlements and Publications appropriation under Wis. Stat. § 20.144(1)(h) for securities and*
17 *investor education, and/or for other securities and investor protection purposes.*

18 6. This order is not intended by the Division to subject any Covered Person to any
19 disqualifications under the laws of the United States, any state, the District of Columbia, Puerto
20 Rico, or the U.S. Virgin Islands, or under the rules or regulations of any securities or commodities
21 regulator or self-regulatory organization, including, without limitation, any disqualification from
22 relying upon the state or federal registration exemptions or safe harbor provisions. "Covered
23 Person," means UBS or any of its affiliates and their current or former officers or former officers,
24 directors, employees, or other persons that could otherwise be disqualified as a result of the Orders
(as defined below).

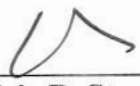
25 7. This Order and the order of any other State in any proceeding related to UBS's
26 agreement to resolve the above referenced multi-state investigation (collectively, the "Orders")

1 shall not disqualify any Covered Person from any business that they otherwise are qualified,
2 registered or permitted to perform under applicable securities laws or regulations of the Wisconsin
3 and any disqualifications from relying upon this state's registration exemptions or safe harbor
4 provisions that arise from the Orders are hereby waived.

5 8. This Order shall be binding upon UBS and its successors and assigns as well as to
6 successors and assigns of relevant affiliates with respect to all conduct subject to the provisions
7 above and all future obligations, responsibilities, undertakings, commitments, limitations,
8 restrictions, events, and conditions.

9 Dated this 22~~d~~ day of October, 2013.

10
11 **BY ORDER OF THE WISCONSIN DEPARTMENT OF**
12 **FINANCIAL INSTITUTIONS**

13
14 
15 _____
16 **Patricia D. Struck**
17 **Administrator**
18 **Division of Securities**
19
20
21
22
23
24
25
26

1 **CONSENT TO ENTRY OF CONSENT ORDER BY UBS**
2 **FINANCIAL SERVICES, INC.**

3 UBS hereby acknowledges that it has been served with a copy of this Consent Order
4 ("Order"), has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and
5 has waived the same.

6 UBS admits the jurisdiction of the Division, neither admits nor denies the Findings of Facts
7 and Conclusions of Law contained in this Order, and consents to entry of this Order by the Division as
8 settlement of the issues contained in this Order.

9 UBS agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with
10 regard to any state, federal or local tax for any administrative monetary penalty that UBS shall pay
11 pursuant to this Order.

12 UBS states that no promise of any kind or nature whatsoever was made to it to induce it to
13 enter into this Order and that it has entered into this Order voluntarily.

14 Ilene Marquardt represents that he/she is Managing Director of UBS and that, as such,
15 has been authorized by UBS to enter into this Order for and on behalf of UBS.

16 Dated this 21 day of October, 2013.

17 UBS FINANCIAL SERVICES, INC.

18 By: 

19 Title: Managing Director

20 SUBSCRIBED AND SWORN TO before me this 21st day of October, 2013.

21 [Affix seal]

22 
23 Notary Public

24 My Commission expires:
25

26 